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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/885,793

Filing Date: June 19, 2001

Appellant(s): ZDEPSKI, JOEL

RORY D. RANKIN
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 03/03/09 appealing from the Office action mailed 09/03/08.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,240,555 SHOFF ET AL. 05-200

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-9, 11-26, 28-42, 44-61 and 63-80, are rejected under 35

U.S.C. 102(e) as being anticipated by Shoff et al (6,240,555).

As to claim 1, note the **Shoff** reference figures 2 and 8, interactive entertainment system (ITV-System 20, fig.2 and 4) for presenting supplemental interactive content together with continuous video programs and further discloses a method of script usage in an interactive television system comprising:

Executing an interactive application ‘IAP’ where the IAP is configured to provide the added content (figs.2, 5, Processor 92 of Viewer Computing Unit ‘VCU’ 24 or STB 26, col.4, lines 14-34, line 56-col.5, line 23 and col.8, lines 4-34), note that VCU/STB 24/26 receives the TV program, the supplemental interactive content, an interactive icon “script” and the interactive application, via Head end 22, a television broadcaster and web content provider (col.4, lines 14-21 and line 43-col.5, line 1+), stores in memory

(94/96, coupled to Tuner 98/100, fig.5, col.8, lines 4-38) and Processor 92 “a network communications operator,” retrieves these contents and execute IAP to provide TV program, the icon and supplemental content accordingly on display 200 (figs.8a-8c, col.8, lines 38-61 and col.10, line 59-col.11, line 1+);

Providing an opportunity (Processor 92 displays Icon 204, other indicia, fig.8 and col.9, lines 30-53) for display of added content (Supplemental Interactive content, col.5, line 12-33), where provision of the added content is configured to be triggered by one or more user selections (Remote Control, mouse, etc., col.4, lines 27-34 and col.9, lines 54-59); note that the icon, other indicia on the screen informs the viewer that the program is interactive or includes supplemental content;

Executing a script which generates one or more automatic selections associated with the opportunity, the automatic selections comprising input to the interactive application that triggers provision of the added content, the input being input that would otherwise be received responsive to a viewer's active interaction, providing the added content for display in response to detecting the automatic selections (figs.6-9, col.4, lines 27-34, col.9, line 41-col.10, line 10 and line 24-col.12, line 38); note that the viewer unit (VCU), generating one or more automatic selections associated with the opportunity (see flow chart figs.6-7 and figs.8a-8c) and upon a user activating icon 204. Furthermore, activating the script or Icon 204 displays the supplemental content as partly overlaid on the video program, or provided as a wrapper around or along side the program and automatic displays additional buttons 212-221, 232-237 and second tier of information which are synchronized to the program according to timing information.

As to claim 7, Shoff further discloses where the icon is configured to provide at least one of the one or more automatic selections associated with the opportunity at a predetermined time (col.9, lines 41-49 and col.11, lines 21-24 and line 48-col.12, line 1+).

As to claim 8 and 9, Shoff further discloses where the added content is pushed content (col.9, line 54-col.10, line 17 and line 50-col.11, line 1+).

As to claim 9, Shoff further discloses where the script is configured to retrieve either one or more automatic selections or the one or more user selections from the message queue in a repeated manner and where the interactive application is configured to determine whether one or more automatic selections exists by accessing the message queue (col.9, line 54-col.10, line 17 and line 50-col.11, line 1+).

As to claim 11, Shoff further discloses where the script is dynamically created in a user STB based on user preferences (col.4, line 56-col.5, line 23, col.10, line 53-col.11, line 44).

As to claim 12, Shoff further discloses indicating default script usage preferences and storing the preferences (col.10, line 59-col.11, line 33).

As to claim 13, Shoff further discloses the method further comprises: identifying a particular future program; associated one or more script usage preferences with the identified program; and storing the preferences (col.4, line 56-col.5, line 23, col.10, line 53-col.11, line 44 and line 48-col.12, line 30).

As to claim 14, Shoff further discloses where the icon is downloaded and the input to the interactive application is not included in the script (col.10, line 53-col.11, line 44 and line 48-col.12, line 30).

As to claim 15, Shoff further discloses where a receiver is configured to dynamically create the script and execute the script to generate the one or more automatic selections (col.10, line 53-col.11, line 44 and line 48-col.12, line 30).

Claim 16 is met as previously discussed with respect to claims 1-2.

Claims 17-18 are met as previously discussed with respect to claim 9.

As to claim 19, the claimed “a carrier medium comprising program instructions, where the program instructions are executable to...” contains the same structural elements as rejected claim 1.

Claim 20 is met as previously discussed with respect to claim 2.

Claim 21 is met as previously discussed with respect to claim 4.

Claim 22 is met as previously discussed with respect to claim 5.

Claim 23 is met as previously discussed with respect to claim 6.

Claim 24 is met as previously discussed with respect to claim 7.

Claim 25 is met as previously discussed with respect to claim 8.

Claim 26 is met as previously discussed with respect to claim 9.

Claim 28 is met as previously discussed with respect to claim 11.

Claim 29 is met as previously discussed with respect to claim 12.

As to claim 30, Shoff further discloses where the icon is downloaded and the input to the interactive application is not included in the script (col.8, lines 35-51, col.10, line 53-col.11, line 44 and line 48-col.12, line 30).

As to claim 31, Shoff further discloses where a receiver is configured to: dynamically create the script and execute the script to generate the one or more automatic selections (col.9, lines 35-65, col.10, line 53-col.11, line 44 and line 48-col.12, line 30).

Claim 32 is met as previously discussed with respect to claim 8.

As to claim 33, Shoff further discloses identifying a particular future program; associating one or more script usage preferences with the identified program and storing the preferences (col.9, line 54-col.11, line 44 and line 48-col.12, line 30).

As to claim 34, the claimed “a script usage device (set-top box ‘STB’ 11) comprising...” contains the same structural elements as rejected claim 1.

Claim 35 is met as previously discussed with respect to claim 2.

Claim 36 is met as previously discussed with respect to claim 3.

Claim 37 is met as previously discussed with respect to claim 5.

Claim 38 is met as previously discussed with respect to claim 5.

Claim 39 is met as previously discussed with respect to claim 6.

Claim 40 is met as previously discussed with respect to claim 7.

Claim 41 is met as previously discussed with respect to claim 8.

Claim 42 is met as previously discussed with respect to claim 9.

Claim 44 is met as previously discussed with respect to claim 11.

Claim 45 is met as previously discussed with respect to claim 12.

Claim 46 is met as previously discussed with respect to claim 30.

Claim 47 is met as previously discussed with respect to claim 31.

Claim 48 is met as previously discussed with respect to claim 8.

Claim 49 is met as previously discussed with respect to claim 32.

As to claim 50, note the **Shoff** reference figures 2 and 8, interactive entertainment system (ITV-System 20, fig.2 and 4) for presenting supplemental interactive content together with continuous video programs and further discloses and further discloses a system (Viewer Computing Unit 'VCU' 24 or STB 26) for automating user input in an interactive television system (ITV-System 20), comprising:

A first source (TV program Source via Tuner 98) configured to convey and interactive application to a receiver (VCU-24 or STB-26, fig.5 and col.8, lines 4-18);

A second source (Supplemental Content Source via Tuner/Modem 100) configured to convey added content to the receiver (VCU-24 or STB-26, fig.5 and col.8, lines 4-18); and

The receiver (VCU-24 or STB-26) coupled to the first source and the second source, where the receiver is configured to:

Providing an opportunity (Processor 92 displays Icon 204, other indicia, fig.8 and col.9, lines 30-53) for display of added content (Supplemental Interactive content, col.5, line 12-33), where provision of the added content is configured to be triggered by one or more user selections (Remote Control, mouse, etc., col.4, lines 27-34 and col.9, lines

54-59), note that the icon, other indicia on the screen informs the viewer that the program is interactive or includes supplemental content;

Executing a script which generates one or more automatic selections associated with the opportunity, the automatic selections comprising input to the interactive application that triggers provision of the added content, the input being input that would otherwise be received responsive to a viewer's active interaction, providing the added content for display in response to detecting the automatic selections (figs.6-9, col.4, lines 27-34, col.9, line 41-col.10, line 10 and line 24-col.12, line 38); note that the viewer unit (VCU), generating one or more automatic selections associated with the opportunity (see flow chart figs.6-7 and figs.8a-8c) and upon a user activating icon 204. Furthermore, activating the script or Icon 204 displays the supplemental content as partly overlaid on the video program, or provided as a wrapper around or along side the program and automatic displays additional buttons 212-221 and second tier of information which are synchronized to the program according to timing information.

Claim 51 is met as previously discussed with respect to claim 2.

Claim 52 is met as previously discussed with respect to claim 3.

Claim 53 is met as previously discussed with respect to claim 2.

Claim 54 is met as previously discussed with respect to claim 2.

Claim 55 is met as previously discussed with respect to claim 6.

Claim 56 is met as previously discussed with respect to claim 4.

Claim 57 is met as previously discussed with respect to claim 5.

Claim 58 is met as previously discussed with respect to claim 6.

Claim 59 is met as previously discussed with respect to claim 7.

Claim 60 is met as previously discussed with respect to claim 8.

Claim 61 is met as previously discussed with respect to claim 9.

Claim 63 is met as previously discussed with respect to claim 11.

Claim 64 is met as previously discussed with respect to claim 12.

Claim 65 is met as previously discussed with respect to claim 30.

Claim 66 is met as previously discussed with respect to claim 31.

Claim 67 is met as previously discussed with respect to claim 8.

Claim 68 is met as previously discussed with respect to claim 32.

As to claim 69, Shoff further discloses where the levels of added content comprises increasing levels of detail (col.5, lines 12-60, col.10, line 34-col.12, line 23).

Claim 70 is met as previously discussed with respect to claim 69.

Claim 71 is met as previously discussed with respect to claim 69.

Claim 72 is met as previously discussed with respect to claim 69.

As to claim 73, Shoff further discloses where the interactive application is configured to provide two or more levels of added content, the method further comprising: storing an indication of a desired level of added content to display during display of a TV program, where the automatic selection are based on the indication and the indication is not associated with any particular added content and providing the desired level of added content for display in response to detecting the automatic selections (figs.6-8c, col.5, lines 12-60, col.10, line 34-col.12, line 23).

As to claim 74, Shoff further discloses where the indication is applicable to all applications which provide an opportunity for display of the desired level of added content (col.5, lines 12-60, col.10, line 34-col.12, line 23).

Claim 75 is met as previously discussed with respect to claim 73.

Claim 76 is met as previously discussed with respect to claim 74.

Claim 77 is met as previously discussed with respect to claim 73.

Claim 78 is met as previously discussed with respect to claim 74.

Claim 79 is met as previously discussed with respect to claim 73.

Claim 80 is met as previously discussed with respect to claim 74.

(10) Response to Argument

With respect to claims 1-9, 11-26, 28-42, 44-61 and 63-80 rejected under 35 U.S.C. 102(e) as being anticipated by **Shoff et al (6,240,555)**, the disagrees that the rejection should be reversed. Appellant recites the claims limitations and argues that Shoff "...does not disclose at least the above highlighted features..." that "...does not disclose or suggest in this or any other portions a script generating selections 'comprising input to the interactive application that triggers provision of said added content,..." that "...does not trigger provisioning of the added content that is associated with the opportunities to invoke supplemental content that are presented to the user." that "...Appellant finds no teaching or suggestion in Shoff of 'executing a script which generates one or more automatic selections associated with the opportunity..." that "

“...no teaching or suggestion in Shoff of ‘executing a script which generates one or more automatic selections associated with the opportunity...’ that “...finds no teaching or suggestion of a ‘message queue’ as recited in claim 17...” etc. (see page 11/31+ of Appellant’s Brief).

In response, Examiner disagrees with assertion for several reasons. Examiner notes Appellant's arguments. Appellant has mischaracterized the Shoff reference by making references to a few cited portions. Shoff discloses that, “An icon 204 is displayed at the lower right corner of the screen to inform the viewer that the program 202 is interactive (figs.8a+, col.9, lines 41+) “As long as the viewer does not activate the icon 204, the viewer computing unit continues to receive the video program over the selected channel and display that program alone, without any supplemental content (steps 166 and 168 in FIG. 6). If the viewer decides to enter into an interactive mode, the viewer employs a remote control...This causes the browser 106 to start the target resource located by the target specification listed in the EPG data structure (step 170 via the “yes” branch from step 164).” The flow chart, Figs.6-7, clearly shows that the computing unit processor goes through step 170 to step 186 and further teaches providing multiple levels of added content either upon selection or automatically provided by the storage unit of VCU or the Headend (HE) (figs.6-9, col.4, lines 27-34, col.9, line 41-col.10, line 10 and line 24-col.12, line 38). As further illustrates in fig.6-7, steps 182-186 is a continuous process where the viewer computing unit (VCU) or the Head end continuously or automatically retrieves the message queue and presents accordingly the supplemental information or additional information (“...automatic selections

associated with the opportunity and comprising input to the interactive application...") with the video program (col.10, line 34-col.12, line 38). Figures 6-7 illustrates this continuous and automatic process and figures 8a-8c illustrates the executing of a script which generates one or more automatic selections (figs 8b-8c) associated with the opportunity. Shoff discloses various embodiments, where the icon 204 can be displayed and the user interacts to receive continuously supplemental content and multi-levels of additional information (including soft buttons 212-221 and 232-237) based on user preferences and other embodiment where the supplemental content is automatically activate as soon as the browser is loaded on the processor to present the digital data (the script) which supports the interactive (figs 6-8c and col.9, line 41-col.12, line 23). The rejection using Shoff is proper and meets all the claims limitations. In any event, the Appellant is reminded that a reference can be relied upon for all that would have reasonably suggested to one of ordinary skilled in the art, including non-preferred/preferred embodiments. Shoff meets all the claims limitations as discussed above and hence the rejection is deemed proper and should be sustained.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

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